

IN RE: PETITION FOR SPECIAL HEARING
SW/S Hoff Court, 190' W of
John Avenue
(5 Hoff Court)
15th Election District
5th Councilmanic District
* BEFORE THE
* ZONING COMMISSIONER
* OF BALTIMORE COUNTY
* Case No. 93-420-SPH
John Romanick, et ux
Petitioners

FINDINGS OF FACT AND CONCLUSIONS OF LAW

This matter comes before the Zoning Commissioner as a Petition for Special Hearing filed by John and Betty Romanick, the owners of the subject property, known as 5 Hoff Court, which is located in the Kenwood community of Baltimore County. The Petitioners request approval to permit an existing fence of 42 inches in height to remain along the property line separating Lots 5 and 6 of the Lloyd Property (Grimesdale), in accordance with Petitioner's Exhibits 1 and 2.

Appearing on behalf of the Petition were the owners of the subject property, John and Betty Romanick, who were represented by John B. Gontrum, Esquire. Appearing in opposition to the request were Mr. & Mrs. Charles Soistman, and Jane Grau, all of whom reside immediately across from and adjacent to the subject property.

Testimony indicated that the subject property, known as 5 Hoff Court, consists of .173 acres, more or less, zoned D.R. 5.5 and is improved with a single family dwelling. The subject of this rather unusual case concerns an existing fence 42 inches in height which was placed along three side property lines. The Petitioners' property, also known as Lot 5 of Grimesdale, adjoins another lot in this residential subdivision owned by Charles and Vicki Soistman. The Soistmans' property is known as Lot 6. The subject fence is located between the two lots and is more particularly

shown on the site plan submitted at the hearing and marked Petitioner's Exhibit 1.

The facts presented in this case are largely undisputed. As noted above, the Petitioners reside on Lot 5. The Petitioners' lot, as well as others in the immediate area, are part of the residential subdivision known as Grimesdale. Access to the Romanick lot is by way of a panhandle driveway off of Hoff Court. This panhandle driveway extends approximately 105.7 feet in a southerly direction from the north curve of Hoff Court to the southern property line of the Romanick property. In addition to the Romanicks' use of this panhandle driveway, the Soistmans and the Graus also use this driveway for access to their properties, known as 7 and 9 Hoff Court, respectively. The layout of the panhandle drive is clearly shown on Petitioner's Exhibit 1 as well as the numerous photographs which were presented.

As is often the case when neighbors must share access, problems have developed between the Petitioners and the Protestants in this matter. As is shown on the site plan, each neighbor owns a one-third fee interest in the panhandle driveway and there is no doubt that each has the right to use the entire driveway in common with the others. Apparently, parking problems and access/egress to the respective properties have developed. The neighbors do not get along. Apparently, these ill feelings have extended to another neighbor, John Evans, who resides at 4 Hoff Court, although the Evans' property is not impacted by the panhandle driveway. However, the photographs show that a fence has been erected in an attempt to barriade that property from the neighboring tracts. In any event, Mr. Romanick has caused there to be constructed a 42-inch high chain link fence across the front and two sides of his property. Approximately 1/4 of the fence

across the front yard consists of a pole and chain which the Romanicks apparently remove as necessary to gain access to and from the panhandle driveway. This removable chain remains in place during most of the hours of the day, much to the consternation of the Soistmans and the Graus.

Mr. Romanick testified that he installed the fence because of intrusion on his property by the Soistmans and the Graus, as well as visitors to those properties. Mr. Romanick claims the fence is necessary to insure the tranquility and privacy of his lot. To the contrary, the Soistmans and the Graus claim that the fence is improper and unduly restricts access to their lots. They believe that the Romanicks are the villains in this squabble and that the fence should be removed.

Apparently, either the Graus or the Soistmans, or both, contacted the Zoning Administration and Development Management (ZADM) office regarding a potential violation for this property. In fact, a violation notice was issued by ZADM; however, prior to moving forward with the violation case, the Petitioners were allowed the opportunity to file the instant Petition to determine if the fence was permitted under the appropriate provisions of the B.C.Z.R.

I have reviewed both the relevant provisions of the B.C.Z.R. as well as the development regulations codified in the Baltimore County Code. As to fences, relevant regulations are found within Section 427 of the B.C.Z.R. In my view, that Section nowhere prohibits the construction of a fence such as has been installed by the Romanicks. Therefore, I do not see any violation of any provision of the B.C.Z.R. or other zoning regulation or policy. I have also reviewed the applicable provisions of the Baltimore County Code as they relate to panhandle driveways. These regulations are contained within Section 26-266 of the County Code, which governs

development in Baltimore County. Again, however, there is no prohibition found in the Code as it relates to the instant scenario. Mr. Gontrum, Counsel for the Petitioners, indicated as much at the hearing. He did acknowledge that the most recent version of the Comprehensive Manual of Development Policies (C.M.D.P.) would prohibit the Romanick fence where situated. However, as Mr. Gontrum correctly observed, the fence was constructed prior to the adoption of the latest version of the C.M.D.P. and is therefore grandfathered.

The subject Petition for Special Hearing is filed pursuant to the authority given the Zoning Commissioner in accordance with Section 500.7 of the B.C.Z.R. That Section provides that the Zoning Commissioner shall have the power to conduct such other hearings and pass such other orders as is necessary to properly enforce and interpret the zoning regulations of Baltimore County. In this case, there are no zoning or development regulations which can be applied to this situation. Therefore, having found no authority prohibiting the fence, I am left with no alternative other than to grant the Petition as filed.

Notwithstanding my decision in this respect, however, I believe that the affected neighbors do have other means for relief. Although not privy to their deeds, I suspect that they have a right of access on the entire panhandle driveway, including the portion which is blocked by the Romanicks' fence. Perhaps relief to the Graus and the Soistmans lies through an action in the Circuit Court of Maryland for Baltimore County. Quite frankly, I am sympathetic to their plight; however, I am powerless to order that the fence be removed.

Pursuant to the advertisement, posting of the property, and public hearing on this Petition held, and for the reasons given above, the relief requested in the special hearing should be granted.

THEREFORE, IT IS ORDERED by the Zoning Commissioner for Baltimore County this 26th day of July, 1993 that the Petition for Special Hearing requesting approval to permit an existing fence of 42 inches in height to remain along the property line separating Lots 5 and 6 of the Lloyd Property (Grimesdale), in accordance with Petitioner's Exhibits 1 and 2, be and is hereby GRANTED, subject to the following restriction:

- 1) The Petitioners are hereby made aware that proceeding at this time is at their own risk until such time as the 30-day appellate process from this Order has expired. If, for whatever reason, this Order is reversed, the relief granted herein shall be rescinded.

LAWRENCE E. SCHMIDT
Zoning Commissioner
for Baltimore County

LES:bjs

Baltimore County Government
Zoning Commissioner
Office of Planning and Zoning
Suite 113 Courthouse
400 Washington Avenue
Towson, MD 21204
July 26, 1993 (410) 887-4386

John B. Gontrum, Esquire
814 Eastern Boulevard
Baltimore, Maryland 21221

RE: PETITION FOR SPECIAL HEARING
SW/S Hoff Court, 90' W of John Avenue
(5 Hoff Court)
15th Election District - 5th Councilmanic District
John Romanick, et ux - Petitioners
Case No. 93-420-SPH

Dear Mr. Gontrum:

Enclosed please find a copy of the decision rendered in the above-captioned matter. The Petition for Special Hearing has been granted in accordance with the attached Order.

In the event any party finds the decision rendered is unfavorable, any party may file an appeal to the County Board of Appeals within thirty (30) days of the date of this Order. For further information on filing an appeal, please contact the Zoning Administration and Development Management office at 887-3391.

Very truly yours,

LAWRENCE E. SCHMIDT
Zoning Commissioner
for Baltimore County

LES:bjs

cc: Mr. & Mrs. Charles J. Soistman
7 Hoff Court, Baltimore, Md. 21221

Ms. Jane Grau
9 Hoff Court, Baltimore, Md. 21221

People's Counsel

File



Petition for Special Hearing
93-420-SPH
to the Zoning Commissioner of Baltimore County
for the property located at 5 Hoff Court, Baltimore, Md. 21221
which is presently zoned D.R. 5.5

This Petition shall be filed with the Office of Zoning Administration & Development Management. The undersigned, legal owner(s) of the property situated in Baltimore County and which is described in the description and plat attached hereto and made a part hereof, hereby petition for a Special Hearing under Section 500.7 of the Zoning Regulations of Baltimore County, to determine whether or not the Zoning Commissioner should approve

a fence 42" in height along the property line separating Lots 5 and 6 as shown on the accompanying site plan of a portion of Lloyd Property "Grimesdale" record plat.

Property is to be posted and advertised as prescribed by Zoning Regulations.

I, or we, agree to pay expenses of above Special Hearing advertising, posting, etc., upon filing of this petition, and further agree to and are to be bound by the zoning regulations and restrictions of Baltimore County adopted pursuant to the Zoning Law for Baltimore County.

Contract Purchase/Lease:

(Type or Print Name)

Signature

Address

City

State

Zipcode

Attorney for Petitioner

John B. Gontrum

(Type or Print Name)

Signature

Address

City

State

Zipcode

Address

City

State

Zipcode

Legal Owner(s)

(Type or Print Name)

Signature

(Type or Print Name)

Signature

5 Hoff Court

Baltimore, Md. 21221

City

State

Zipcode

Name, Address and phone number of legal owner, contract purchaser or representative to be contacted.

Name

Address

City

State

Zipcode

ESTIMATED LENGTH OF HEARING

Responsible for Hearing

ALL OTHER

REVIEWED BY

DATE 8/27/93

ROMANICK
SPECIAL HEARING ZONING DESCRIPTION

BEGINNING at a point on the Southwestern side of Hoff Court 190.00 feet from the center line of John Avenue and running the following courses and distances; S 17° 56' 1" West 105.70 feet, S 72° 3' 59" East 90.33 feet, S 17° 56' 1" East 70 feet, N 72° 3' 59" West 97.51 feet, N 17° 56' 1" East 175.36 feet thence running along the southwestern side of Hoff Court 7.18 feet to the point of beginning.

BEING all that lot of ground known as Lot 5 Lloyd Property "Grimesdale" as recorded among the Land Records of Baltimore County in Plat Book E.H.K., Jr. No. 49 folio 80, containing 7,557 square feet, plus or minus.

receipt

**Baltimore County
Zoning Administration &
Development Management**
111 West Calverley Avenue
Towson, Maryland 21204

Account: R-001-6190

Number: 432
JLL

Date: 5/27/93

93-420-SPH

Rea SPH Felling fee . Code 030 = \$50.00
(1) SIGN Porting Fee Code 080 = 35.00

N.A.M.E : ROMANIKI
LOC # 5 HOFF CT.

85⁰⁰


03A03M0123WICH
876 420-230 MONS-27-93

Please Make Checks Payable To: Baltimore County

\$85.00

Cashier Validation

Baltimore County Government
Office of Zoning Administration
and Development Management



111 West Chesapeake Avenue
Towson, MD 21204

(410) 887-3353

June 14, 1993

John B. Contrum, Esquire
814 Eastern Boulevard
Baltimore, MD 21221

RE: Case No. 93-420-SPII, Item No. 432
Petitioner: John Romanick, et ux
Petition for Special Hearing

Dear Mr. Contrum:

The Zoning Plans Advisory Committee (ZAC) has reviewed the plans submitted with the above referenced petition. The attached comments from each reviewing agency are not intended to indicate the appropriateness of the zoning action requested, but to assure that all parties, i.e., Zoning Commissioner, attorney and/or the petitioner, are made aware of plans or problems with regard to the proposed improvements that may have a bearing on this case.

Enclosed are all comments submitted thus far from the members of ZAC that offer or request information on your petition. If additional comments are received from other members of ZAC, I will forward them to you. Otherwise, any comment that is not informative will be placed in the hearing file. This petition was accepted for filing on May 27, 1993, and a hearing was scheduled accordingly.

The following comments are related only to the filing of future zoning petitions and are aimed at expediting the petition filing process with this office.

1) The Director of Zoning Administration and Development Management has instituted a system whereby seasoned zoning attorneys who feel that they are capable of filing petitions that comply with all aspects of the zoning regulations and petitions filing requirements can file their petitions with this office without the necessity of a preliminary review by Zoning personnel.

BALTIMORE COUNTY, MARYLAND

INTER-OFFICE CORRESPONDENCE

TO: Arnold Jablon, Director
Zoning Administration and
Development Management

DATE: June 10, 1993

FROM: Pat Keller, Deputy Director
Office of Planning and Zoning

SUBJECT: Petitions from Zoning Advisory Committee

The Office of Planning and Zoning has no comments on the following petition(s):
Item Nos. 427, 429, 431 and 432.

If there should be any further questions or if this office can provide additional
information, please contact Jeffrey Long in the Office of Planning at 887-3480.

Prepared by: Jeffrey W. Long

Division Chief: Gary L. Klein

PK/JL:lw

✓
427-ZAC/ZAC1

6/8/93
CJ

HC

BALTIMORE COUNTY, MARYLAND

Inter-Office Correspondence

TO: Zoning Advisory Committee DATE: June 7, 1993

FROM: Captain Jerry Pfeifer

SUBJECT: June 14, 1993 Meeting

#425 No Comments

#426 Building shall comply with the 1991 Life Safety Code

#427 No Comments

#428 Building shall comply with the 1991 Life Safety Code

#429 No Comments

#430 No Comments

#431 No Comments

#432 No Comments

RECEIVED
JUN 8 1993
ZADM

LIEFF 6457 PAGE 273

DEED — FEE SIMPLE — INDIVIDUAL GRANTOR — LONG FORM

This Deed, MADE THIS day of October
in the year one thousand nine hundred and eighty-two by and between
Thomas A. Lloyd and Robert B. Tipton

of Baltimore County, parties of the first part, and
John Romanick and Betty B. Romanick, his wife, parties
of the second part.

WITNESSETH That in consideration of the sum of Twenty one Thousand Four Hundred (\$21,400.00) Dollars and 00/100ths, and other good and valuable considerations, the receipt of which is hereby acknowledged.

the said parties of the first part

do grant and convey to the said Parties of the second part, as tenants by the entireties, their assigns, the survivor of them and the survivor's

personal representatives/~~ADMINISTRATORS~~ and assigns , in fee simple, all
that lot of ground situated in Baltimore County, Maryland
and described as follows, that is to say:

Being known and designated as Lot No. 5, as shown on the Plat entitled "Lloyd Property 'Grimesdale'", which Plat is recorded among the Land Records of Baltimore County in Platsbook E.H.K., Jr. No. 49, folio 80, being an unimproved lot, in fee simple.

Being part of the same lot of ground described in deed dated November 21, 1978, and recorded among the Land Records of Baltimore County in Liber E.H.K., Jr., 5961, folio 426, which was granted and conveyed from Lloyd Realty, Inc., unto the parties of the first part herein.

STATE DEPARTMENT OF
AGRICULTURE & TAXATION
[Signature] 11-23-82
CLERK DATE

C RC/F 14.00
C T TX 107.00
C DCS 107.30
NEED 00
ENR JT 229.30
H:3732 C001 R02 T1243
11/22/82

AGRICULTURAL TRANSFER TAX
NOT APPLICABLE

SIGNATURE Lm DATE 11/24/82

B 0 040*****32190** 2229A

STIEMERS K

REASON FOR FIRST
10-5-82 10' south
We the undersigned do hereby agree to the above mentioned revision.
Lot #1 Joseph G. Schermer, Mary C. Schermer
Lot #2 J. B. United Methodist Church, Robert T. Hurley, Pastor
Lot #3 Edward Kenneth Pakulski, Mary E. Pakulski
Lot #10 Antonio Pierozzi, Emilia M. Pierozzi

GENERAL NOTES

1. All lots shown are for sale.
2. All lots shown are to be public.
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GRIMESDALE

BALTIMORE COUNTY, MARYLAND

REVISED NOV. 21, 1979
REVISED DEC. 29, 1979
REVISED FEB. 6, 1980
REVISED OCT. 8, 1982
REVISED JULY 6, 1983

MICROFILMED

